



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. M. Trimble
First Assistant State Superintendent
Austin, Texas

Dear Mr. Trimble: Opinion No. O-2643
Re: Sufficiency of Assignment of Salary by
Teacher Under S. B.
No. 297, Regular Session,
46th Legislature

We acknowledge receipt of your letter of August 19, 1940, requesting an opinion by this department as to the sufficiency of an assignment (copy of which you enclose) by a teacher of her salary under the provisions of S. B. 297, enacted by the 46th Legislature.

The form of assignment which accompanies your letter upon the face of the instrument is as follows:

"Pilot Point, Texas

March 1, 1940

FOR VALUE RECEIVED I, we, or either of us, promise to pay to School Service, Lamar, Missouri, or order, the sum of

(\$60.09) SIXTY & 09/100 - - - - - Dollars

Payable as indicated in the schedule of payments, with interest from date at 10 per cent per annum, with a minimum of \$15.00 attorneys fees if note is placed in the hands of an attorney for collection or suit; non-

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payment of any instalment when due, renders the entire amount due and payable at the option of the holder; to secure the payment of this note. I we or either of us, do assign, transfer and pledge to the holder of this note any salary or wages due or which may become due from Pilot Point Independent School Dist. and do agree that if this note is not paid according to its terms and assignment presented to said school, said school is authorized and directed to honor said assignment and pay direct to the holder of this note out of salary due or to become due, the balance due on said note.

Address Denton, Texas (Signed) Elzada Peace
1104 E. Hickory

Address _____ Grady Peace"

On the reverse side of the instrument is a form for an acknowledgment with all blanks as to county, teacher, dates, notarial certificate, seal, and the like left entirely blank.

This form appears to be a sufficient form for an unmarried person, but not as to a joint acknowledgment where the teacher is a married woman.

Section 2 of Senate Bill 297 authorizing an assignment, transfer or pledge by any teacher or school employee of salary or wages contains this proviso:

"Provided that such assignment, transfer or pledge be in writing and acknowledged in the same manner as required for the acknowledgment of a deed or other instrument for registration, and provided further that if

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such instrument be executed by a married person, it shall also be executed and acknowledged by his or her spouse in such manner."

If the form upon the reverse side of the assignment in the particular transaction here involved was not completed by the filling of the necessary blanks, and the signature and seal of the notary public, the instant assignment is entirely invalid.

We assume that Elzada Peace was the teacher making the assignment in the instant case, and that she was a married woman, the wife of Grady Peace. In that event the form acknowledgment we are considering, even though filled out and acknowledged by Elzada Peace, would not be sufficient for the lack of joinder of Grady Peace in the acknowledgment before the notary public.

We call your attention to the peculiar wording of this act with respect to acknowledgment. The wording is such that if the teacher be a married person (whether husband or wife) the instrument shall be executed and acknowledged by his or her spouse. From this it would follow that if the teacher be a married man, nevertheless his wife would also be required to sign and acknowledge the assignment, and, of course, as already indicated, if the teacher be a married woman, her husband would have to sign and acknowledge.

What we have said has no reference to teachers and employees of school districts created by special acts containing contrary provisions with respect to assignments of salaries. This question is decided by us in opinion No. 0-2472, addressed to Honorable L. A. Woods, State Superintendent of Public Instruction, a copy of which you have in your files.

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Trusting that what we have said sufficiently
answers your inquiry, we are,

Yours very truly

APPROVED AUG 27, 1940

ATTORNEY GENERAL OF TEXAS

Samuel R. Allen
FIRST ASSISTANT
ATTORNEY GENERAL

By

Ocie Speer
Ocie Speer
Assistant

CS:LW

